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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/064,080
Filing Date: June 10, 2002
Appellant(s): DALE ET AL.

John L. Adair (Reg. No. 48,828
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 8, 2006 appealing from the Office action mailed January 19, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Apparatus, Method and Computer program product for guaranteed content delivery incorporating putting a client on-hold based on response time by Susai et al., U.S. Patent No. 6,725,272.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-19 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Susai et al. (U.S. Patent Number 6,725,272) hereinafter referred as Susai.

Susai teaches the invention as claimed including an apparatus, method and computer program product for guaranteeing network client-server response time while providing a way of putting the client on-hold when the response time temporarily prohibits, access to the requested server (See abstract).

As to claim 1, Susai teaches a method of using a router to cache inquiry data corresponding to a target device in a network having a plurality of client devices, the method comprising:

storing inquiry data corresponding to a target device in a cache memory (Column 4, lines 22-24, Column 6, lines 44-49, Susai discloses Interface unit 202, which may be a proxy cache "cache memory" determines the response time "Inquiry data" for a selected server "target device");

receiving a request for the inquiry data corresponding to the target device (Column 5, lines 4-7, 11-15, Susai discloses client sends request to Interface unit 202 for a selected server "target device");

reading the inquiry data from the cache memory (Column 6, lines 43-46, Column 7, lines 57-64, Susai discloses Interface unit 202 "cache memory" determines the response time "Inquiry data" and read from Interface 202); and

providing the inquiry data corresponding to the target device in response to the request (Column 7, lines 57-64, Susai discloses the response time "Inquiry data" is read from Interface unit 202 and sent "providing inquiry data" to the client in response to client request).

As to claim 2, Susai teaches the method of claim 1, further comprising collecting the inquiry data corresponding to the target device prior to storing the inquiry data corresponding to the target device (Column 5, lines 11-32).

As to claim 3, Susai teaches the method of claim 2, wherein collecting the inquiry data corresponding to the target device comprises detecting the inquiry data corresponding to the target device as the inquiry data corresponding to the target device is transmitted from the target device to a requesting host device (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 4, Susai teaches the method of claim 2, wherein collecting the inquiry data corresponding to the target device comprises detecting a request for the inquiry data corresponding to the target device as the request is routed from a host to the target device and copying the inquiry data corresponding to the target

device which is returned by the target device in response to the request (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 5, Susai teaches the method of claim 1, wherein providing the inquiry data corresponding to the target device in response to the request comprises determining whether the target device is busy, and providing the stored inquiry data corresponding to the target device if the target device is busy and providing inquiry data returned by the target device if the target device is not busy (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 6, Susai teaches the method of claim 5, wherein if the target device is not busy, the inquiry data that is returned by the target device in response to the request is stored in the cache memory in place of previously stored inquiry data (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 7, Susai teaches the method of claim 1, wherein the inquiry data from the cache memory is provided to the target device in response to the request regardless of whether or not the target device is busy (Column 7, lines 57-64).

As to claim 8, Susai teaches the method of claim 1, further comprising storing inquiry data corresponding to each of a plurality of target devices, receiving

requests for the inquiry data corresponding to one or more of the target devices, determining whether the corresponding target devices are busy and, for each of the target devices that is busy, returning the corresponding stored inquiry data, and, for each of the target devices that is not busy, returning the corresponding inquiry data returned by the target device (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 9, Susai teaches the method of claim 1, further comprising: upon receiving a first request for inquiry data, forwarding the first request to the target device regardless of whether or not the target device is busy, storing inquiry data returned in response to the first request, forwarding inquiry data returned in response to the first request to a requesting device and, in response to subsequent requests, reading the inquiry data returned in response to the first request from the cache memory and providing the inquiry data returned in response to the first request in response to the subsequent requests (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 10, Susai teaches the method of claim 1, further comprising determining whether a received command comprises a request for inquiry data and: if the received command comprises a request for inquiry data, reading the inquiry data from the cache memory and providing the inquiry data corresponding to the target device in response to the request; and if the received command does

not comprise a request for inquiry data, forwarding the command to the target device for execution (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 11, Susai teaches a device comprising:

a router configured to route data between one or more hosts and one or more target devices (Column 5, lines 11-32,Column 7, lines 57-64, Susai discloses Interface unit 202 "router" route data); and

a cache memory coupled to the router (Column 4, lines 22-24, Susai discloses proxy cache "cache memory");

wherein the router is configured to store inquiry data received from the one or more target devices and to provide at least a portion of the stored inquiry data in response to a request for inquiry data corresponding to one of the target devices that is busy (Column 4, lines 22-24, Column 6, lines 44-49, Column 7, lines 57-64, Susai discloses Interface unit 202 "router" inherently stores the response time "Inquiry data" of a selected server "target device". Susai also discloses response time "Inquiry data" is read from Interface unit 202 and sent "providing inquiry data" to the client in response to client request).

As to claim 12, Susai teaches the device of claim 11, wherein the router is configured to detect the inquiry data as the inquiry data is transmitted from the target device to a requesting host device (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 13, Susai teaches the device of claim 11, wherein the router is configured to detect a request for the inquiry data as the request is routed from a host to the target device and copying the inquiry data which is returned by the target device in response to the request (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 14, Susai teaches the device of claim 11, wherein the router is configured to determining whether the target device is busy, and provide the stored inquiry data if the target device is busy and providing inquiry data returned by the target device if the target device is not busy (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 15, Susai teaches the device of claim 14, wherein, if the target device is not busy, the router is configured to store the inquiry data returned by the target device in response to the request in the cache memory in place of previously stored inquiry data (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 16, Susai teaches the device of claim 11, wherein the router is configured to provide the inquiry data from the cache memory to the target device in response to the request regardless of whether or not the target device is busy (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 17, Susai teaches the device of claim 11, wherein the router is configured to store inquiry data corresponding to each of a plurality of target devices, to receive requests for the inquiry data corresponding to one or more of the target devices, to determine whether the corresponding target devices are busy and to return the corresponding stored inquiry data for each of the target devices that is busy, and returning the corresponding inquiry data returned by the target device for each of the target devices that is not busy (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 18, Susai teaches the device of claim 11, wherein if the inquiry data is not stored in the cache, the router is configured to: upon receiving a first request for inquiry data, forward the first request to the target device regardless of whether or not the target device is busy; store inquiry data returned in response to the first request; forward inquiry data returned in response to the first request to a requesting device; and, in response to subsequent requests, reading the inquiry data returned in response to the first request from the cache and providing the inquiry data returned in response to the first request in response to the subsequent requests (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 19, Susai teaches the device of claim 11, wherein the router is configured to determine whether a received command comprises a

request for inquiry data and wherein the router is configured to: if the received command comprises a request for inquiry data, read the inquiry data from the memory and provide the inquiry data corresponding to the target device in response to the request; and if the received command does not comprise a request for inquiry data, forward the command to the target device for execution (Column 5, lines 11-32,Column 7, lines 57-64).

As to claim 22, Susai teaches a computer readable medium, wherein the computer readable medium contains one or more instructions which are configured to cause a computer to perform the method of using a router to cache inquiry data corresponding to a target device in a network having a plurality of client devices, the method comprising:

storing inquiry data corresponding to a target device in a cache memory (Column 4, lines 22-24, Column 6, lines 44-49, Susai discloses Interface unit 202, which may be a proxy cache "cache memory" determines the response time "Inquiry data" for a selected server "target device" and inherently stored it in Interface unit 202);

receiving a request for the inquiry data corresponding to the target device (Column 5, lines 4-7, 11-15, Susai discloses client sends request to Interface unit 202 for a selected server "target device");

reading the inquiry data from the cache memory (Column 6, lines 43-46, Column 7, lines 57-64, Susai discloses Interface unit 202 "cache memory" determines the response time "Inquiry data" and read from Interface 202); and

providing the inquiry data corresponding to the target device in response to the request (Column 7, lines 57-64, Susai discloses the response time "Inquiry data" is read from Interface unit 202 and display "providing inquiry data" to the client in response to client request).

(10) Response to Argument

The examiner summarizes the various points raised by the appellant and addresses replies individually.

As per appellants arguments filed on September 08, 2006, the appellant argues that Susai does not teach or suggest inquiry data (see Brief page 17, argument A)

In response to A) Susai teaches an apparatus, method and computer program product for guaranteeing network client-server response time while providing a way of putting the client on-hold when the response time temporarily prohibits, access to the requested server (See abstract). Susai teaches client sending request for information to Interface unit 202 (See Column 5, lines 4-7, 11-15), in response to the client's request Interface unit 202 determines waiting time to access a selected server for the client and displays that to the client. Response time (waiting time for the client) is interpreted to be the "Inquiry data".

Inquiry data is not defined in claim. Additionally in the specification Inquiry data may also include *availability of a network device* (See Paragraph [0006]). Where the availability of a network device may mean the wait time to access a network device. For example, a network device may be available in 5 minutes. Therefore Susai's wait time is interpreted to be "Inquiry data".

The appellant argues that Susai does not teach or suggest responding to a request by providing the requested data from a Cache Memory (see Brief page19, argument B).

In response to B) Susai teaches receiving request from client (See Column 5, lines 4-7, 11-15) and displaying wait time "respond" to the client (See Column 7, lines 57-64). Susai teaches Interface unit 202 could be a proxy cache (See Column 4, lines 22-24), which is interpreted to be "cache memory". The interface unit 202 being a proxy cache then transmits the response time to the client. Since the response time "Inquiry data" is determined at the interface unit 202 and the response time is transmitted from the interface unit 202, then the response time "Inquiry data" is inherently stored on the interface unit 202 (See Column 6, lines 44-49 and Column 4, lines 22-24). Therefore Susai teaches "Storing Inquiry data in a Cache Memory".

Susai also teaches the client send a request to determine whether content may be obtained instantaneously or with a wait time from a selected server "target device" (See Column 5, lines 4-7 and 11-15). Therefore, Susai teaches

receiving a client request for wait time on a selected server i.e. "request for inquiry data corresponding to target device".

Also, as discussed above, the interface unit 202 that's the proxy cache inherently stores the wait time "Inquiry data" in its memory where the wait time is then transmitted by the interface unit to the requesting client (See Column 6, lines 43-46 and Column 7, lines 57-64). Therefore, Susai teaches "reading inquiry data from the cache memory".

Finally, Susai teaches the wait time "Inquiry data" is sent to the requesting client in response to the client request (See Column 7, lines 57-64). Therefore Susai teaches, "providing the inquiry data corresponding to the target device in response to the request".

The appellant argues that Susai does not teach "a Router Configured to Respond to A request for Inquiry Data Corresponding to One of the Target Devices That is Busy Using Stored Inquiry Data" (see Brief, page 24, argument C).

In response to C) Susai teaches Interface unit 202 could be a router (See Column 4, lines 22-24). Susai teaches receiving request from client to Interface unit 202 (See Column 5, lines 4-7, 11-15) and Interface unit 202 determines response time and displays the response time to the client (See Column 7, lines 57-64). Response time (waiting time for the client) is interpreted to be the "Inquiry data". Interface unit 202 inherently stores the response time. The response time

indicates whether the server or network device is busy (availability). Therefore Susai teaches "a Router Configured to Respond to A request for Inquiry Data Corresponding to One of the Target Devices That is Busy Using Stored Inquiry Data".

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

F. H.

Faruk Hamza

November 21, 2006

Conferees:

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